

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

GOGGINS BUILT NOT BORN, LLC

Plaintiff,

v.

**PETER CELLIER,
JOHN NJOGU,
KARIUKI NJOGU, and
JOHN AND JANE DOES 1-10,**

Defendants.

Case No.

COMPLAINT

JURY DEMAND

Plaintiff Goggins Built Not Born, LLC (“GBNB” or “Plaintiff”) hereby states this Complaint against Defendants Peter Cellier, John Njogu, Kariuki Njogu, and John and Jane Does 1-10 (“Does 1-10”) (collectively, the “Defendants”) as follows:

INTRODUCTION

1. David Goggins (“Goggins”) is a world-renowned athlete, author, and speaker known for his rise from childhood poverty and abuse to U.S. Navy SEAL to world-class endurance athlete to author and motivational speaker. His extraordinary story, including superhuman feats of physical endurance have been viewed hundreds of millions of times by fans and followers throughout the world. Goggins’ best-selling books, Can’t Hurt Me: Master Your Mind and Defy the Odds (“Can’t Hurt Me”) and Never Finished: Unshackle Your Mind and Win the War Within (“Never Finished”; collectively with “Can’t Hurt Me”, the “Books”) have sold approximately seven million copies.

2. Goggins has developed an impeccable reputation and loyal following thanks to his powerful and inspiring messages of discipline and self-belief. As a result, countless

individuals across the globe credit Goggins and his Books as fueling positive and meaningful transformation in their own lives.

3. Goggins self-published the Books. The Books' popularity has made Goggins one of the most successful self-published authors of all time.

4. Goggins assigned the copyrights to the Books to GBNB. GBNB owns the copyrights for the Books.

5. GBNB registered the Books with the Copyright Office and has received copyright registrations for the Books.

6. GBNB has authorized the sale of the Books in certain formats.

7. GBNB has never published, sold, or authorized the publication of, or authorized the sale of, PDF, ePub, or mp3 versions of the Books.

8. Defendants created unauthorized PDF, ePub, and audiobook (mp3) versions of Can't Hurt Me and unauthorized PDF and audiobook (mp3) versions of Never Finished (collectively, the "Unauthorized Books").

9. Defendants sold the Unauthorized Books on at least their website bestbooksales.com and third-party website Abebooks.com.

10. Defendants' sales of the Unauthorized Books have damaged GBNB at least through the lost sales associated with the Books.

11. This is an action for copyright infringement under the Copyright Act (17 U.S.C. § 101 *et seq.*).

THE PARTIES

12. Plaintiff Goggins Built Not Born, LLC is a Delaware Limited Liability Company with a principal place of business in Nevada.

13. Defendant Peter Cellier is an individual residing in Washington, D.C.

14. Defendants John Njogu and Kariuki Njogu are individuals residing at 5915 Mayflower Court, #203, Alexandria VA, 22312.

15. Defendants Does 1-10 are unknown individuals, groups of individuals, and/or entities responsible for, and/or contributing to, the infringing activity as set forth herein, including the creation, sale, and distribution of the Unauthorized Books.

JURISDICTION AND VENUE

16. The Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338 as Plaintiff's claims arise under the laws of the United States, namely under the Copyright Act (17 U.S.C. § 101 *et seq.*).

17. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b)(2) and 28 U.S.C. § 1400(a) as each Defendant either resides in this District or is subject to personal jurisdiction in this District because a substantial part of the events giving rise to the claims occurred in this District as further described herein.

18. As further detailed herein, Defendant Peter Cellier is the owner of and/or associated with a Facebook page which lists Alexandria, Virginia under the contact information. Defendant Cellier is also the signatory on the emails distributing the Unauthorized Books. Therefore, Defendant Cellier has directly engaged in the infringing actions and conduct occurring within this District.

19. As further detailed herein, Defendants John Njogu and Kariuki Njogu reside in this District. The address at which Defendants John Njogu and Kariuki Njogu reside is associated with a domain name related to the sale and distribution of Unauthorized Books. Furthermore, Defendants John Njogu and Kariuki Njogu committed acts of infringement within this District.

20. This Court has personal jurisdiction over Defendants consistent with the principles of due process because each Defendant either resides, conducts business, and/or committed at least a portion of the infringing activity in this District.

DAVID GOGGINS' HISTORY AND REPUTATION

21. Goggins is an awe-inspiring individual whose life story is a lesson in overcoming hardship and adversity to achieve greatness. Goggins endured a brutal upbringing that easily could have relegated him to a life of depression and meaninglessness. Instead, he used his suffering as a catalyst to grow and adapt.

22. Goggins is a retired Navy SEAL and the only member of the U.S. Armed Forces to complete SEAL training, Army Ranger School, and Air Force Tactical Air Controller training. Since honorably retiring from the military in 2015, Goggins has worked for the US Forest Service as a Wildland Firefighter and for the last two years as a Smokejumper in British Columbia. Goggins has also pursued his Advanced EMT degree, as well as earned certification as a Primary Care Paramedic in Canada, and has worked in a big-city hospital as an ER Tech.

23. Goggins is widely considered to be among the world's best ultra-endurance athletes. He has competed in more than 70 endurance races, has placed 3rd at the Badwater 135 Death Valley which is considered the world's toughest foot race, and has regularly placed in the top five in other ultramarathons. Until recently, he also held the Guinness World Record for the most pull-ups done in a single day, completing 4,030 in 17 hours.

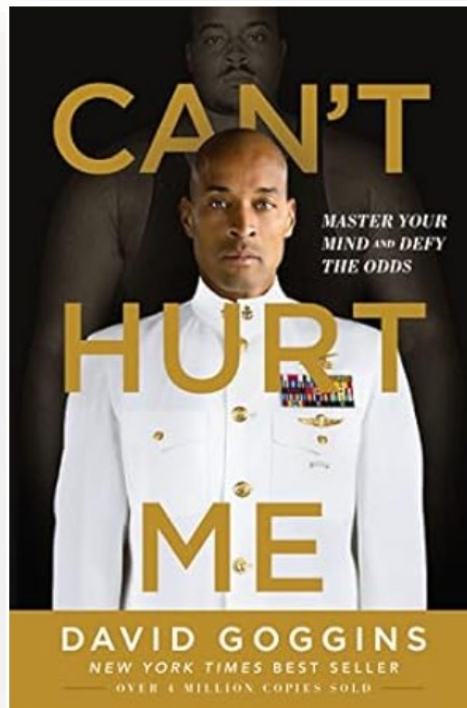
24. Goggins' physical feats and tough-love message to embrace suffering and discipline have been well-received by the consuming public. As a result, Goggins enjoys a committed audience of millions of people. Long before Goggins ever achieved fame he was practicing his own methods to overcome tribulations in his life. This authenticity and integrity resonate with his followers and has earned him profound respect. As Goggins' fame grew, he

found purpose in using his own inner and physical strength to impart strength to others. This led to his decision to start his businesses GBNB and to self-publish his Books.

25. Goggins remains committed to his core values. He continues to push his mind and his body to their limits and manages his business to ensure it produces only high-quality products and content. Because of this internal resolve and authenticity, Goggins has earned goodwill and reputation associated with his name and brand, both of which he vigilantly protects.

GOGGINS' SELF-PUBLISHED BOOKS

26. Goggins is the author of the self-published book Can't Hurt Me.

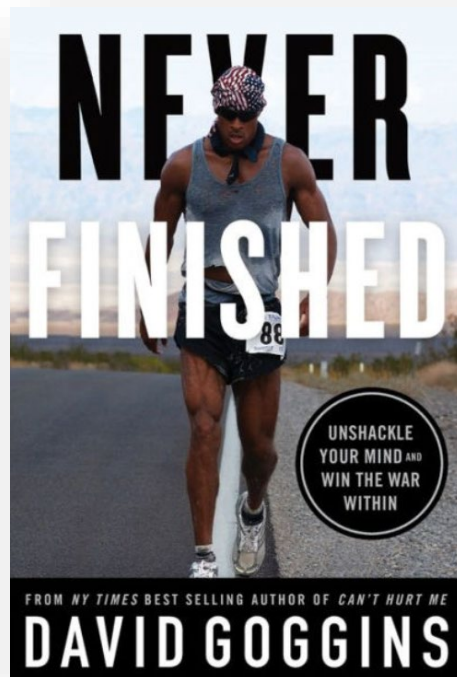


27. Can't Hurt Me details Goggins' life story of overcoming his brutally difficult upbringing to become a Navy SEAL, world-renowned endurance athlete, and one of the world's leading authorities on mental toughness. Can't Hurt Me became a *New York Times* bestselling book that was featured on global media platforms like the Joe Rogan Experience podcast and has been on Amazon's best-selling list for over 200 weeks.

28. GBNB maintains copyright registration number TX0008752122 to Can't Hurt Me.

29. To date, Can't Hurt Me has sold millions of copies in multiple languages and is currently available in hardcover, paperback, audiobook, and Kindle formats. There is also a clean (non-explicit) version available in paperback and eBook.

30. Goggins is also the author of the self-published book Never Finished.



31. Never Finished takes a reader inside Goggins' "Mental Lab" where he developed the philosophy, psychology, and strategies that enabled him to learn that what he thought was his limit was only his beginning and that the quest for greatness is unending. Never Finished rose to number 1 on Amazon's best-seller list.

32. GBNB maintains copyright registration number TXu002337826 to Never Finished.

33. To date, Never Finished has sold over a million copies in multiple languages and is currently available in hardcover, paperback, audiobook, and Kindle formats.

34. GBNB has authorized the sale of hard copy and paperback versions of the Books to authorized sellers.

35. GBNB has authorized the sale of the audiobook version of the Books via Audible, Inc. in Audible's proprietary format, .aax.

36. GBNB has authorized the sale of the Kindle version of the Books in the .azw format and subsequent generations of that format.

37. GBNB has not published or authorized the publication of PDF, ePub, or mp3 versions of the Books.

SALES OF UNAUTHORIZED BOOKS

38. Upon information and belief, Defendants all operate and/or contribute to the operation of the website located at bestbooksales.com.

39. The WHOIS¹ information for the website's domain name shows the domain name bestbooksales.com is registered in Virginia.

40. The bestbooksales.com website includes a shop that offers books, including new arrivals, best sellers, feature books, and sale items.

41. Upon information and belief, Defendants' business model includes locating best-selling books and creating unauthorized versions of those books, including in the PDF, ePub, and mp3 formats. Defendants then offer for sale and sell those formats via their website and third-party websites without the permission of the author or publisher.

¹ WHOIS is a database that stores the registrant, administrative, technical, and billing information for domain name ownership and control. The WHOIS information for the domain name bestbooksales.com can be found here: <https://whois.domaintools.com/bestbooksales.com>.

42. Upon information and belief, Defendants each create and/or contribute to the creation of previously unpublished derivative versions of books by accessing the published versions of the books and creating derivatives of those books in different formats.

43. Defendants sell the books that they copy in PDF, ePub, and mp3 formats via other websites, including at least abebooks.com, iberlibro.com, abebooks.it, abebooks.fr, abebooks.de, and abebooks.co.uk.

44. Defendants use at least the seller name “BestBookDeals” as their seller name on the websites abebooks.com, iberlibro.com, abebooks.it, abebooks.fr, abebooks.de, and abebooks.co.uk.

45. Defendants operate a Facebook page under the name BestBookDeals2012.com, as shown below:

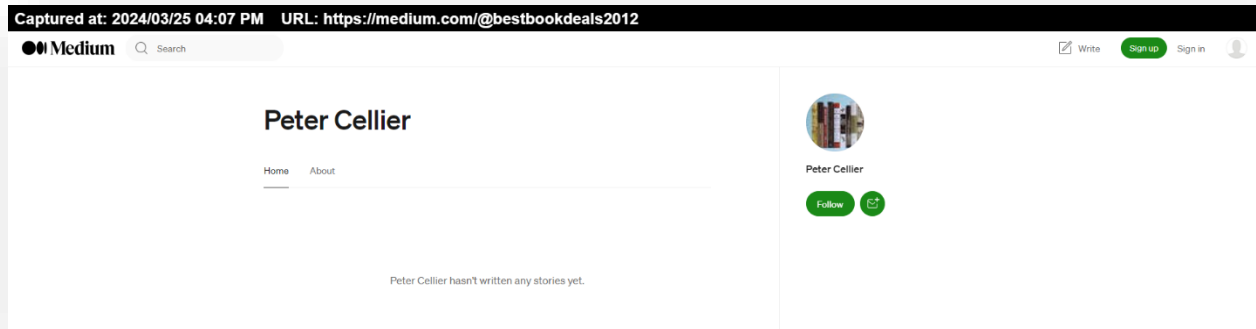


46. This Facebook page lists “Alexandria, VA” under the Contact Information.

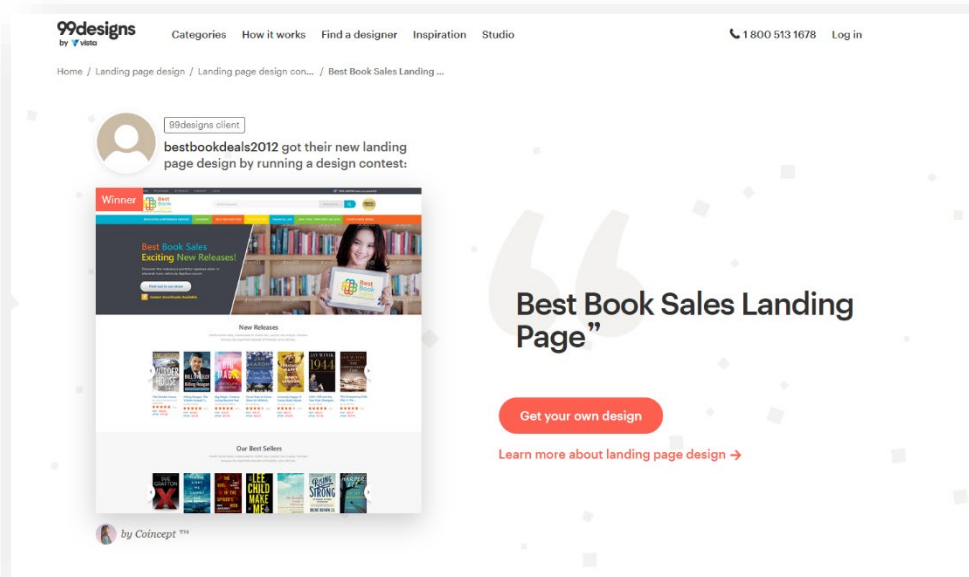
47. The domain name referenced in the Facebook page, Bestbookdeals2012.com, was owned by Kariuki Njogu with an address at 5915 Mayflower Court, #203, Alexandria VA, 22312. Defendants John Njogu and Kariuki Njogu are associated with this same address. The email address associated with the registration was peter_cellier@yahoo.com as shown in the screenshot of the WHOIS record below:

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Domain Name: BESTBOOKDEALS2012.COM
Registry Domain ID: 1772613350_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.enom.com
Registrar URL: www.enom.com
Updated Date: 2016-01-12T02:43:18.00Z
Creation Date: 2013-01-11T06:54:00.00Z
Registrar Registration Expiration Date: 2016-01-11T06:54:30.00Z
Registrar: ENOM, INC.
Registrar IANA ID: 48
Domain Status: clientTransferProhibited https://www.icann.org/epp#clientTransferProhi
Registry Registrant ID:
Registrant Name: KARIUKI NJOGU
Registrant Organization:
Registrant Street: 5915 MAYFLOWER CT 203
Registrant Street: NONE
Registrant City: ALEXANDRIA
Registrant State/Province: VA
Registrant Postal Code: 22312
Registrant Country: US
Registrant Phone: +1.7038737886
Registrant Phone Ext:
Registrant Fax:
Registrant Fax Ext:
Registrant Email: PETER_CELLIER@YAHOO.COM
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48. The same profile picture and name, Bestbookdeals2012, is associated with a Medium account under Defendant Peter Cellier's name.



49. The name, Bestbookdeals2012, was re-designed through a page design contest through 99designs, converting it to the now-current landing page for the bestbooksales.com website.



50. The business being carried out under the name Bestbookdeals2012 (including any various thereof, such as removal of the 2012 date), and through the bestbooksales.com website is

one in the same business. Upon information belief, that business is owned, conducted, and/or carried out by each of the Defendants.

51. Upon information and belief, Defendants had access to the copyrighted work Can't Hurt Me. The book was readily available through major marketplaces and stores.

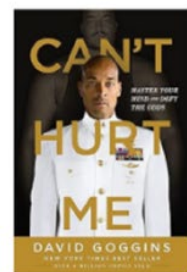
52. Defendants copied Can't Hurt Me.

53. Defendants created a PDF version of Can't Hurt Me.

54. Defendants created an ePub version of Can't Hurt Me.

55. Defendants created an mp3 version of Can't Hurt Me.

56. Defendants distributed PDF, ePub, and mp3 versions of Can't Hurt Me to the public throughout their website at bestbooksales.com. A screenshot of the listing related to the book offering is below:



Can't Hurt Me: Master Your Mind and Defy the Odds (MP3)

13 Review(s) | Add Your Review

Price: \$7.99

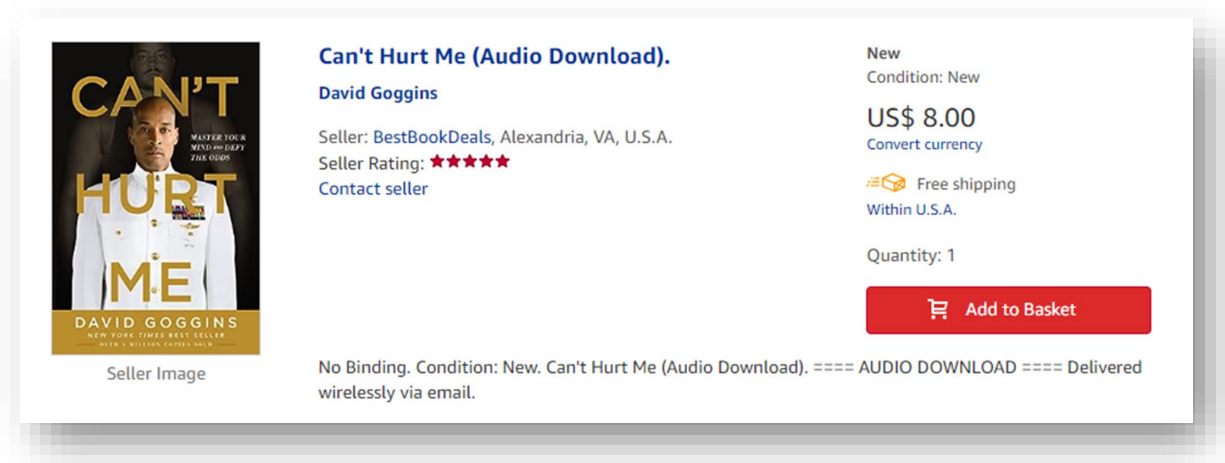
New York Times best-seller. Over five million copies sold

For David Goggins, childhood was a nightmare--poverty, prejudice, and physical abuse colored his days and haunted his nights. But through self-discipline, mental toughness, and hard work, Goggins transformed himself from a depressed, overweight young man with no future into a US Armed Forces icon and one of the world's top endurance athletes. The only

[Learn More](#)

ADD TO CART

57. Defendants distributed PDF, ePub, and mp3 versions of Can't Hurt Me to the public through Abebooks.com and its affiliated sites located at iberlibro.com, abebooks.it, abebooks.fr, abebooks.de, and abebooks.co.uk. A screenshot of the listing related to the book offering is below:



58. Defendants did not have permission to create PDF, ePub, and mp3 versions of Can't Hurt Me.

59. Upon information and belief, Defendants all knew they did not have permission to create PDF, ePub, and mp3 versions of Can't Hurt Me.

60. Upon information and belief, Defendants, with knowledge of GBNB's rights, willfully copied, created derivative works of, sold, and distributed unauthorized copies of Can't Hurt Me.

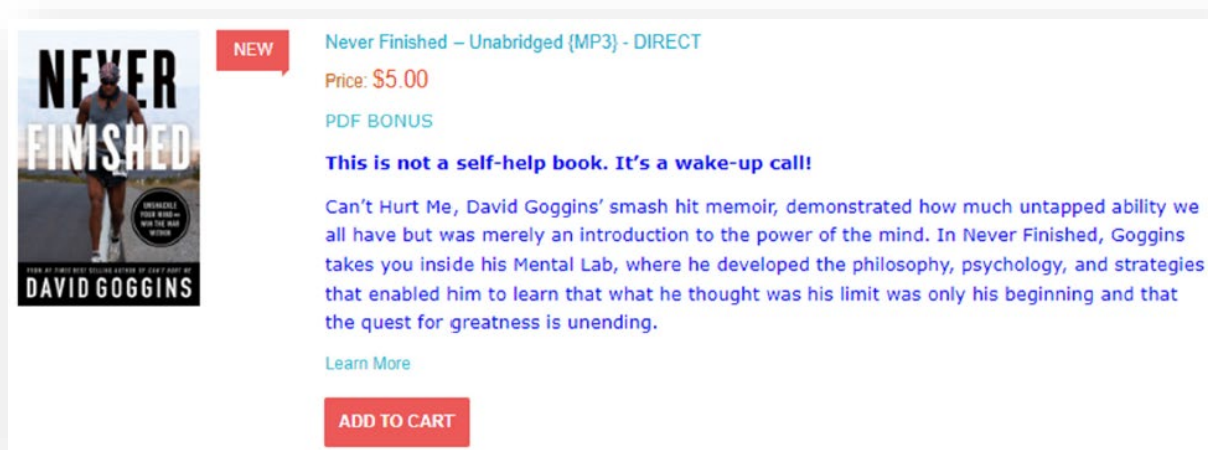
61. Upon information and belief, Defendants had access to the copyrighted work Never Finished. The book was readily available on major marketplaces and stores.

62. Defendants copied Never Finished.

63. Defendants created a PDF version of Never Finished.

64. Defendants created an mp3 version of Never Finished.

65. Defendants distributed the PDF and mp3 versions of Never Finished to the public through his website at bestbooksales.com. A screenshot of the listing related to the book offering is below:



66. Defendants distributed the PDF and mp3 version of Never Finished to the public through the website Abebooks.com and its affiliated sites located at iberlibro.com, abebooks.it, abebooks.fr, abebooks.de, and abebooks.co.uk. A screenshot of the listing related to the book offering is below:



67. Defendants did not have permission to create the PDF and mp3 versions of Never Finished.

68. Upon information and belief, Defendants all knew they did not have permission to create the PDF and mp3 versions of Never Finished.

69. Upon information and belief, Defendants, with knowledge of GBNB's rights, willfully copied, created derivative works of, sold, and distributed unauthorized copies of Never Finished.

70. Defendants charged \$9.00 for the PDF, ePub, and mp3 versions of the book and \$.75 in tax for their sale of unauthorized copies of Can't Hurt Me.

Bookseller: BestBookDeals
AbeBooks Purchase Order No.: 682362189
Order Date: March 10, 2024
Purchase Method: Visa
Payment Processed By: AbeBooks
Total Confirmed Charge: US\$ 9.75

Item Status: **Confirmed**
Title: Can't Hurt Me (Audio Download).
Author: David Goggins
Quantity: 1
Book Description: Can't Hurt Me (Audio Download). ==== AUDIO DOWNLOAD ====
Delivered wirelessly via email
Binding: No Binding
Book Condition: New
Book Price: US\$ 9.00
Shipping Price: US\$ 0.00
Estimated Sales Tax: US\$ 0.75

71. Defendants distributed the Unauthorized Books via email and a download link to consumers who purchased the books. An example email from Defendant Cellier and download pages from Defendants' distribution of the Unauthorized Books is below:

Hello

We have sent a download link to your [gmail](#) email, alternatively you can use the link below.

<https://spaces.hightail.com/receive/veW7GPouLD>

Please Note: Hightail links are for desktop laptops and PC's.

Any Player you have will open the mp3 files, you don't need any special apps.

Hightail links for Desktop Laptops and PC's. If you are using a mobile device. Open the link in browser (if using cell) and then click on "desktop view" in your settings. It'll let you download that way.

Regards,
Peter
bestbooksales.com



bestbooksales has shared 4 files.



4 files • 524 MB total

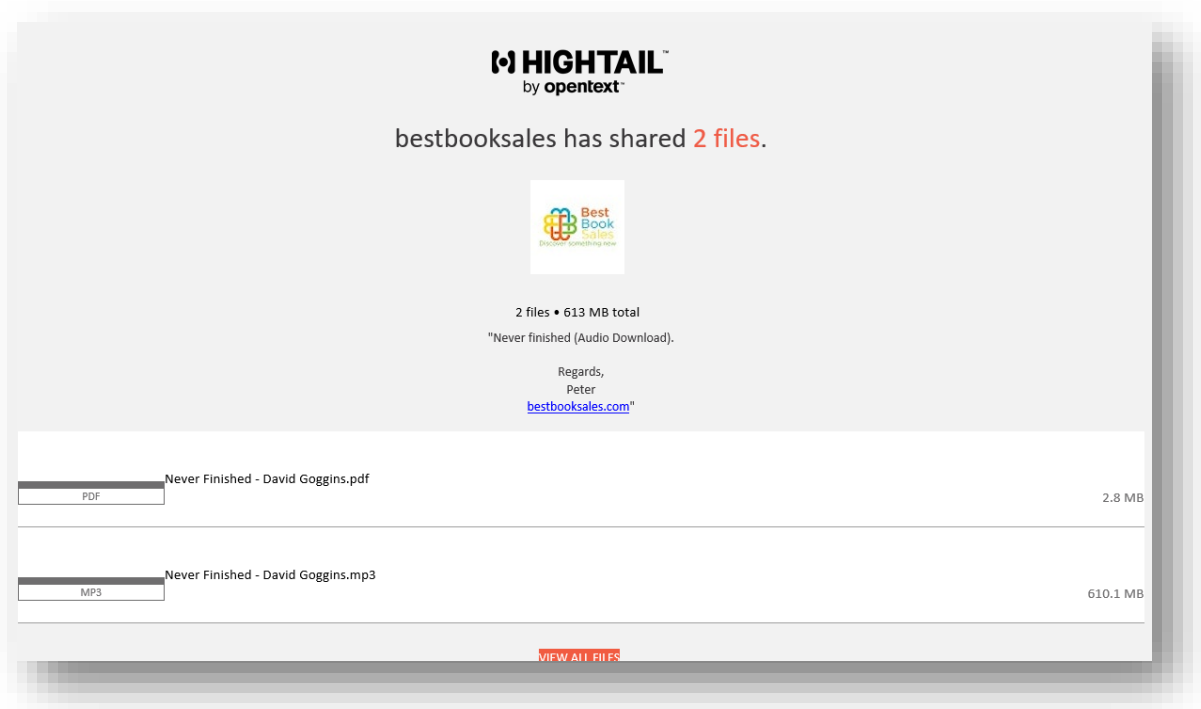
"Can't Hurt Me (Audio Download).

Regards,
Peter
bestbooksales.com

"

MP3	Cant Hurt Me Part2 David Goggins.mp3	279.7 MB
PDF	Can't Hurt Me.pdf	6.1 MB
EPUB	Can't Hurt Me by David Goggins.epub	3 MB
MP3	Cant Hurt Me Part1 David Goggins.mp3	234.9 MB

[VIEW ALL FILES](#)



72. GBNB did not give Defendants permission to copy, reproduce, prepare derivatives of, sell, or distribute the Books in any format.

73. Defendants profited from their sale of the Unauthorized Books.

74. Defendants harmed GBNB through the copying, reproduction, distribution, and sale of at least three different unauthorized formats of Can't Hurt Me and at least two different unauthorized formats of Never Finished.

COUNT I: COPYRIGHT INFRINGEMENT
17 U.S.C. § 501, et seq.

75. Plaintiff incorporates preceding paragraphs 1-74 as if fully set forth herein.

76. GBNB owns and maintains federal copyright registrations for Can't Hurt Me: Master Your Mind and Defy the Odds and Never Finished: Unshackle Your Mind and Win the War Within ("GBNB Copyright Registrations"):

Work Title	Registration No.	Registration Date
<u>Can't Hurt Me: Master Your Mind and Defy The Odds.</u>	TX0008752122	2019-06-07
<u>Never Finished: Unshackle Your Mind and Win the War Within.</u>	TXu002337826	2022-09-14

77. Each Defendant has directly copied, reproduced, prepared derivative works, sold, and/or distributed works covered by at least one of the GBNB Copyright Registrations without GBNB's authorization.

78. Defendants further had access to each of the Books, which are covered by the GBNB Copyright Registrations.

79. The Unauthorized Works are substantially similar, if not identical, to the Books, which are covered by the GBNB Copyright Registrations.

80. Defendants have knowingly and willfully infringed each of the GBNB Copyright Registrations.

81. The acts of Defendants have caused, and will continue to cause, damage to GBNB in an amount to be determined at trial. At a minimum, GBNB is entitled to its actual damages and disgorgement of Defendants' profits or to statutory damages under 17 U.S.C. § 504.

82. GBNB is entitled to recover its costs and reasonable attorneys' fees under 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing allegations and claims, Plaintiff Goggins Built Not Born, LLC requests the following relief against Defendants:

- a. An award to Plaintiff of compensatory damages, including but not limited to damages for lost sales and other reasonable compensation, in an amount to be determined;

- b. An award to Plaintiff of actual damages and any additional profits of Defendants under 17 U.S.C. § 504(b), or in the alternative, statutory damages under 17 U.S.C. § 504(c);
- c. An award in equity to all of Plaintiff's revenues, profits, and benefits Defendants unjustly received, and awarding them to Plaintiff;
- d. A constructive trust on Defendants in favor of Plaintiff on all unjust revenues, profits, and benefits;
- e. An accounting to Plaintiff by Defendants for all unjust revenue, profits, and benefits;
- f. An order causing Defendants to destroy all Unauthorized Works, including any unauthorized copies of all versions of Goggins Built Not Born, LLC's books Can't Hurt Me: Master Your Mind and Defy the Odds and Never Finished: Unshackle Your Mind and Win the War Within;
- g. An order causing Defendants to destroy all Unauthorized Works and other products containing Plaintiff's intellectual property;
- h. An award to Plaintiff of pre- and post-judgment interest, costs and expenses, disbursements, exemplary damages, and attorneys' fees in this action, in an amount to be determined; and
- i. An award to Plaintiff of such other and further relief as the Court seems just and equitable.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury of all issues so triable.

Respectfully submitted this 2nd day of April, 2024.

/s/ Joshua Hartman

Joshua Hartman (VSB No. 77894)

MERCHANT & GOULD P.C.

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Alexandria, VA 22314

(703) 684-2500 (telephone)

JHartman@merchantgould.com

William D. Schultz (*pro hac vice* to be filed)

Gabrielle L. Kiefer (*pro hac vice* to be filed)

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Minneapolis, MN 55402-4247

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GKiefer@merchantgould.com